



California Regional Water Quality Control Board

San Diego Region

Alan C. Lloyd, Ph.D.
Secretary for
Environmental
Protection

Over 50 Years Serving San Diego, Orange, and Riverside Counties
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Arnold Schwarzenegger
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May 20, 2005

David L. Mulliken, Esq.
Latham & Watkins LLP
600 West Broadway, Suite 1800
San Diego, CA 92101

Dear Mr. Mulliken:

TENTATIVE CLEANUP AND ABATEMENT ORDER NO. R9-2005-0126

This letter is in response to your letters to me and John Minan, Chairman of the San Diego Regional Water Quality Control Board dated May 12, 2005, and your Motion for Continuance regarding the workshop and public hearing for the above-captioned order. I disagree with your assertion that it would be improper for the Regional Board to proceed with the June 1 workshop and June 29 public hearing to consider the adoption of a cleanup and abatement order (CAO) setting cleanup requirements for marine sediments located within and adjacent to the NASSCO and Southwest Marine Shipyard leaseholds.

While you are correct in your statement of the law regarding findings supporting administrative action, nothing precludes the Regional Board from conducting a hearing on a proposed future action before the findings have been finalized. The findings presented in the current draft of the tentative CAO provide a sufficient basis to serve as the analytical framework for discussion of the substantive CAO provisions that will, ultimately, be presented to the Regional Board with the appropriate findings and technical analysis when the Board Members deliberate on adoption of the CAO. The Board's deliberation would occur following conclusion of the public workshop(s) and public hearing(s).

I do think it is important for the Regional Board to proceed methodically and deliberately in considering the technical, economic, and social issues associated with setting cleanup requirements for the marine sediments. Moreover the Regional Board has several new Board members appointed in recent months that would benefit from a workshop on the issue. Based on these considerations I have decided to cancel the scheduled June 1 workshop and June 29 public hearing and instead reschedule the June 29 Regional Board Meeting to be a day-long public workshop on the issue for the Regional Board members. At that time the Regional Board members can hear comments from all interested parties on the issue and participate in informal

California Environmental Protection Agency

David L. Mulliken
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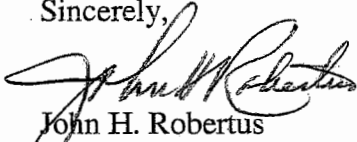
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discussions on what the next steps should be and the schedule for considering cleanup requirements for the contaminated sediments at the shipyard sediment site.

Thank you for your interest in this very important project.

Sincerely,



John H. Robertus
Executive Officer

cc: John Minan, Chairman
Lane McVey, NASSCO